



ORGANIZATION FOR THE PROTECTION
AND ADVANCEMENT OF SMALL
TELEPHONE COMPANIES

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September 12, 1994

SEP 12 1994

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

Mr. William F. Caton
Secretary
Federal Communications Commission
Room 222
1919 M Street, NW
Washington, DC 20554

Re: Equal Access and Interconnection
Obligations Pertaining to
Commercial Mobile Radio Services
CC Docket No. 94-54
RM-8012

Dear Mr. Caton:

Please find enclosed for filing the original and eleven copies of the Organization for the Protection and Advancement of Small Telephone Companies' comments in the above-captioned proceeding.

Thank you for your assistance in this matter.

Sincerely,

A handwritten signature in black ink, appearing to read 'Lisa M. Zaina'. The signature is fluid and cursive, with a large loop at the end.
Lisa M. Zaina
General Counsel

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**Before the
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Washington, DC 20554**

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In the Matter of)
Equal Access and Interconnection)
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RM-8012

**COMMENTS OF
THE ORGANIZATION FOR THE PROTECTION AND
ADVANCEMENT OF SMALL TELEPHONE COMPANIES**

OPASTCO
21 Dupont Circle, NW
Suite 700
Washington, DC 20036
(202) 659-5990

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**COMMENTS OF
THE ORGANIZATION FOR THE PROTECTION AND
ADVANCEMENT OF SMALL TELEPHONE COMPANIES**

I. INTRODUCTION

On July 1, 1994, the Federal Communications Commission (FCC or Commission) released the text of a Notice of Proposed Rulemaking and Notice of Inquiry¹ concerning the matter of equal access and interconnection obligations for commercial mobile radio service (CMRS) providers. The Organization for the Protection and Advancement of Small Telephone Companies (OPASTCO) hereby submits its comments in response to the Commission's NPRM and NOI.

OPASTCO is a national trade association of more than 440 independently owned and operated telephone companies serving rural areas of the United States and Canada. Its members, which

¹In the Matter of Equal Access and Interconnection Obligations Pertaining to Commercial Mobile Radio Services, CC Docket No. 94-54, Notice of Proposed Rulemaking and Notice of Inquiry, 59 FR 35664 (July 13, 1994). (NPRM and NOI)

include both commercial companies and cooperatives, together serve over two million customers. Two thirds of OPASTCO's member companies are involved in the provision of cellular telecommunications service -- either by providing the service themselves, or by participating in partnerships. These companies have a presence in approximately 220 Rural Service Areas (RSAs) and 75 Metropolitan Service Areas (MSAs) throughout the United States.

The NPRM and NOI proposes increasing customer choice by requiring CMRS providers to provide equal access to interexchange carriers (IXCs). OPASTCO believes the idea is unworkable for the small independent rural telephone companies. This idea, prompted by the MCI Petition², is based on the erroneous assumption that the entire cellular industry can be characterized by the attributes of several large markets served by a few large companies. The conditions for smaller local exchange carriers (LECs) are definitely unique and a call for uniform, nationwide equal access policies would be prohibitively expensive and could have a detrimental effect on rural cellular providers and their subscribers. Also, given the imminent competition of personal communication services (PCS) and wide area specialized mobile radio (SMR), sweeping interconnection obligations are not in the public interest, and, at best, premature.

²MCI Telecommunications Corporation, In the Matter of Policies and Rules Pertaining to the Equal Access Obligations of Cellular Licensees, Petition for Rulemaking, RM-8012, June 2, 1992. (Petition)

II. NATIONWIDE EQUAL ACCESS OBLIGATIONS WOULD HARM SMALL CELLULAR PROVIDERS AND THEIR CUSTOMERS

Unlike urban areas with dense population centers, rural communities require coverage over much wider geographic areas containing far fewer potential subscribers. Small independent telephone companies took quite a risk years ago when building the infrastructure needed for cellular communications, given the higher costs for penetration and lower concentration of customers to divide the costs. At the time, there was no guarantee that cellular phones would be as ubiquitous and as they are today. Rural consumers have benefited from this wireless access to remote regions.

OPASTCO feels the costs associated with implementing equal access would be particularly burdensome for small telephone companies. Additional trunks would have to be added from the cellular system to the IXCs' points of presence, increasing transport costs. Switches would either have to be upgraded or replaced. Roaming agreements would become highly complicated. The balloting process itself would incur expenses. All of these costs would be added on to the many rural cellular systems, increasing the subscriber rates. Rural cellular providers do not have the financial resources to spread the costs of implementing equal access due to their relatively small subscriber bases. The advent of future competition, such as PCS, will further dilute this pool of customers over which to spread costs.

In many cases, OPASTCO members provide cellular service over a greatly expanded calling area at one set rate. If forced to disaggregate the "long distance" calls, the consumer will not only pay for air time, but also additional IXC charges. Not only that, the Commission's goal of a wide area seamless network and "reasonable costs" will have been thwarted. OPASTCO believes, in the case of small LECs, the costs of implementing equal access will outweigh the benefits of having the ability to choose an IXC. It is doubtful that rural cellular subscribers would relish the "choice" if it were to cost them more money.

The Commission is concerned that the network upgrades needed for implementation of equal access "would appear to require significant infusion of capital and time," and these "problems may be particularly acute for the smaller cellular carriers and for carriers in rural areas."³ Accordingly, OPASTCO suggests that rural telephone companies and the CMRS affiliates or subsidiaries they own or control be exempted from equal access obligations given the detrimental effect it will have on the rates of the subscribers. A 'rural telephone company' would be defined as a telecommunications carrier which provides service to any study area that does not include any incorporated place of 10,000 inhabitants or more; or serves fewer than 100,000 access lines within a study area. This exemption would allow rural

³NPRM at para. 54.

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³NPRM at para. 54.

cellular subscribers to continue getting quality, seamless service at reasonable rates from their rural telephone company.

III. INTERCONNECTION OBLIGATIONS WILL STYMIE THE GROWTH OF THE RAPIDLY CHANGING CMRS INDUSTRY

OPASTCO is wary of applying interconnection regulations to the nascent and constantly shifting CMRS arena. The PCS industry, while still in its infancy, is poised as a likely competitor to cellular. This is just one of the many uses possible for this broadband of spectrum. Many uses, as of today, have not even been considered. OPASTCO believes interconnection obligations would serve only to stifle this innovation, possibly minimizing the positive economic impact of this fledgling industry.

Mandatory interconnection for CMRS will increase the costs to the end user. Increased costs could adversely affect financing of new, evolving services. Additionally, OPASTCO believes mandated interconnection could cause a premature lock on technical parameters, causing a chilling effect on innovation.

Interconnection should also be tempered with the Commission's previous decisions to apply it only to Tier I, non-NECA pool LECs.⁴ In this Order, the Commission realized that interconnection obligations would be overly burdensome for small, rural LECs. The Commission stated that "requiring small LECs to offer expanded interconnection might also tax their resources and

⁴In the Matter of Expanded Interconnection with Local Telephone Company Facilities, CC Docket No. 91-141, Memorandum Opinion and Order, 59 FR 32925 (June 27, 1994). (Order)

harm universal service and infrastructure development in rural areas...possibly threatening the economic viability of a small LEC."⁵ These same obligations, forced upon small LECs that provide CMRS, would also be prohibitively burdensome. Once again, the costs involved in implementation would have to be spread along a relatively thin, dispersed customer base. This high cost, combined with the low density of the markets served by small LECs, would also have a deleterious effect on PCS, especially in attracting financing.

⁵Id., 57 FR 58767 (November 1992).

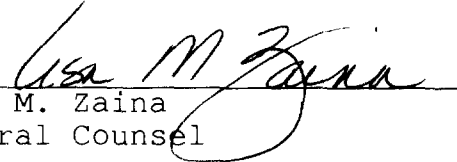
IV. CONCLUSION

Mandatory equal access will only slow and possibly stifle the very innovation that the Commission is trying to promote in CMRS. Moreover, mandatory equal access of all CMRS providers is not warranted.

The small independent LECs are unique because of their size and the areas they serve. The costs associated with the implementation of equal access will only lead to higher rates for their customers. Therefore, OPASTCO believes that equal access and interconnection obligations for rural telephone companies are not in the public interest.

Respectfully submitted,

**THE ORGANIZATION FOR THE
PROTECTION AND ADVANCEMENT
OF SMALL TELEPHONE COMPANIES**

By: 
Lisa M. Zaina
General Counsel

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